Utility Accommodation

Rulemaking

June 24th, 2021

YOUR *Safety* • • • ▶ YOUR *Mobility* • • • ▶ YOUR *Economic Opportunity*

Agenda

- Welcome & Introductions
- Utility Accommodation Rulemaking
- Goals & Objectives of Rulemaking
- Guide for Utility Management
- Broadband Infrastructure
- Stakeholder Input & Comments

Utility Accommodation Rulemaking

- IDAPA 39.03.43 – Rules Governing Utilities on State Highway Right-of-Way
  - Regulate the location, design and methods for installing, relocating, adjusting and maintaining utilities in the State Highway Right-of-Way
  - Incorporates by reference the 2003 Edition of the Utility Accommodation Policy (UAP)
  - UAP is included in ITD's Guide for Utility Management (GUM)

Scope of Utility Accommodation Rulemaking

- Rulemaking will be focused on alternative use of highway Right-of-Way by non-public utilities
- Technologies such as broadband and small wireless facilities require updates to guidance, policy and rules
- Establish requirements for permitting broadband and small wireless facilities
- Ensure compliance with State and Federal requirements

GOALS AND OBJECTIVES OF BROADBAND NEGOTIATED RULEMAKING

Goals and Objectives of Rulemaking

- Orderly use of highway right-of-way by non-public utility companies
- “Dig Once” within the highway right-of-way
- Manage current and future demands on the ROW space by providers
- Serving the greatest public interest through colocation and other space saving practices

Goals and Objectives of Rulemaking

- Leverage ROW usage to connect current and future ITD facilities and roadside devices
- Create a competitively neutral environment that is unbiased in its treatment of utility providers
- Focus on the exchange of facilities and services rather than on the collection of fees or other financial transactions
- When feasible, to support the strategic deployment of broadband infrastructure across the State of Idaho

Managing the ROW

- Updating UAP and GUM will provide a framework for managing broadband facilities within the Right-of-Way (ROW) or State owned property
- Develop policies and procedures for accommodating and managing access for broadband infrastructure
- Manage ROW on a competitively neutral and non-discriminatory basis

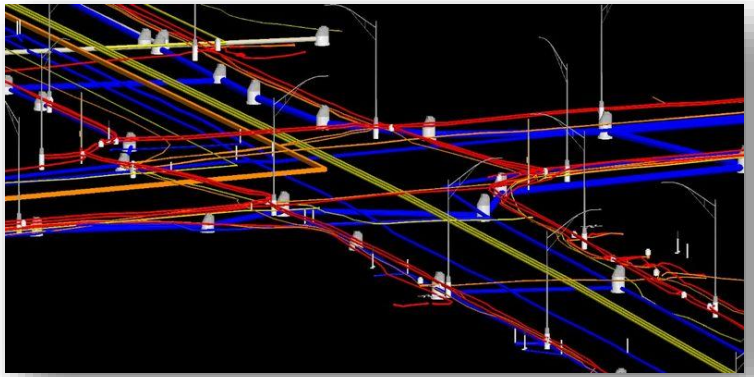
UTILITY ACCOMMODATION POLICY

Utility Accommodation Policy

- The State DOT's UAP outlines the procedures, criteria and standards to evaluate and approve applications for utility facilities within the highway ROW
- In determining whether a proposed installation is a utility or not, the most important consideration is how the State DOT views it under its own State laws and/or regulations

Utility Definitions

- IDAPA 40-210. "Utility" means an entity comprised of any person, private company, public entity, or cooperative owning and/or operating utility facilities



Utility Definitions *(cont.)*

Idaho Code §61-129. A ***Public Utility*** is subject to the jurisdiction, control and regulation by the Idaho Public Utilities Commission

Source: wherestheline.ca

Non-Public Utility includes utilities that are not regulated by the Idaho Public Utilities Commission including broadband, small wireless

GUIDE FOR UTILITY MANAGEMENT

BROADBAND INFRASTRUCTURE

Guide for Utility Management (GUM)

- Provides information and guidance regarding the coordination and administration of right-of-way permittee and utility facilities
- Covers the installation, relocation and adjustment of utility facilities for highway improvement projects
- Utility permit activities and requirements
- Utility agreements
- Utility Accommodation Policy (Appendix A)

GUM – CH 6 – Broadband Infrastructure

- New chapter in the Guide for Utility Mgmt
- State and Federal regulations
- Discussion on the difference between public and non-public utilities
- ITD must effectively manage limited public right-of-way resource for both public and non-public utilities

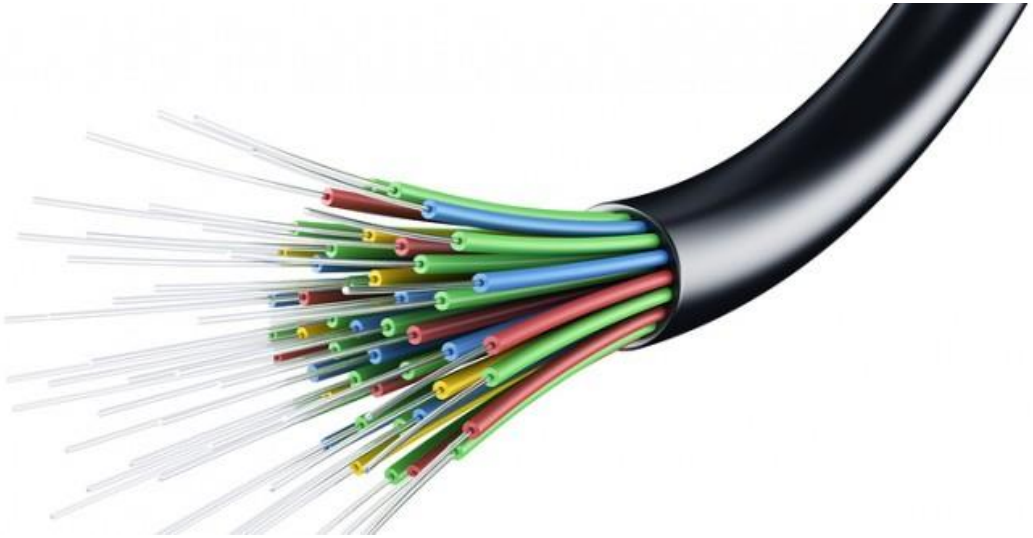
BROADBAND FIBER OPTIC UTILITIES

Broadband Fiber Optic Utilities

- Planning for the accommodation of current and future broadband capacity
- Utilize space saving measures: corridors, colocation of facilities, conduit banks, conduits with micro-ducts for multiple providers
- Coordinate with providers to help identify corridors that could expand services to underserved areas

Shared Resource Agreements

- Public-private agreements allowing conditional access to state ROW or facilities in exchange for the service, infrastructure and/or capacity of providers



Shared Resources Agreements *(cont.)*

- Mutually agreed upon exchange of facilities and services – fair and equitable for both parties
- Can include: fiber for ITD use, additional conduits for future use, broadband services for ITD facilities
- Not required for crossings

SRA Concepts

- Foster private sector competition will result in enhanced telecommunications services to the citizens of Idaho
- Additional ducts shall be made available to other users on a competitively neutral and non-discriminatory basis
- Company agrees to sell/sublease excess capacity to other broadband providers on a competitively neutral and non-discriminatory basis
- Agreements do not provide a Company exclusive use of ITD right-of-way

Future Accommodations

ITD will encourage other companies interested in locating facilities within the same corridor to negotiate leasing part of its facility to minimize disruptions to ITD's right-of-way

SRA Examples

- I-84 SRA installed conduit between OR border and Bliss, ID
  - Provider was granted access to ROW and installed additional spare conduits for use by ITD and other users at a specified rate per foot
  - Company agreed to sell/sublease excess capacity to other users
- I-90 SRA granted access to ITD conduit & vaults in exchange for dark fiber on providers installed cable - enabled new services to state facilities

SRA Examples

- US-95 SRA in north Idaho provided access to ITD conduits & vaults in exchange for the provider installing dedicated cable for ITD use
  - Expanded connectivity to remote ITD Sheds
  - Enabled provider to provide services to schools
  - SRA amended as ITD projects were constructed

BROADBAND SMALL WIRELESS FACILITIES

Broadband Wireless Telecommunications

- Divisions of Highways and small wireless providers enter into Master License Agreement
  - MLA specifies terms and conditions authorizing use of specified ROWs for Small Wireless Facilities (SWF)
  - Permits issued by ITD Districts
  - Use SWF Encroachment Form (ITD Form 2218)
- Compensation for ROW Access & Attachment to State facilities
  - Recommending FCC Declaratory Ruling 18-133 presumptive fee structure

FCC SWF Fee Structure

- (a) $500 for non-recurring fees, including a single up-front application up to 5 SWF with an additional $100 for each SWF or
- $1,000 for non-recurring fees for a new pole Small Wireless Facilities;
- and (b) $270/per SWF per year for all recurring fees including ROW access fee or fee for attachment to state structures in the ROW

Utility Infrastructure Location

- All utility facilities should be as far from the roadway as possible and/or in inaccessible locations where they are unlikely to be hit by errant vehicles
- Placed in locations that preclude them from being roadside hazards
- Do not impact pedestrian facilities or accessibility
- Identify the location of all mounts to existing poles, structures or aerial cables on private or public utility facilities, and ITD facilities

Interstate ROW Installation

- Any installation of broadband infrastructure along Interstate Right-of-Way will require the review and approval by ITD and FHWA Division Administrator
- ITD Broadband Program Manager will coordinate review and approval of any installation requests along the Interstate
- ITD and FHWA discourage median installations of any utilities

As-Built Requirements

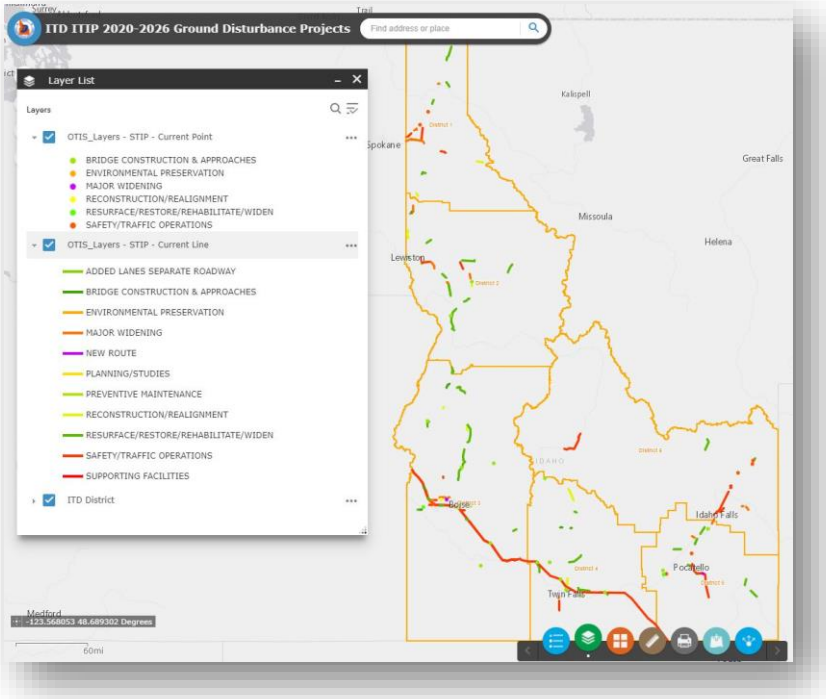
- As-built drawings to include all features installed in the ROW – broadband facilities and supporting infrastructure
- Delivered to ITD in GIS data format
- GIS format will assist ITD in managing broadband facilities within ROW
- Due within 30 days of completion of work

OUTREACH & COORDINATION

STAKEHOLDER ENGAGEMENT

Outreach & Coordination

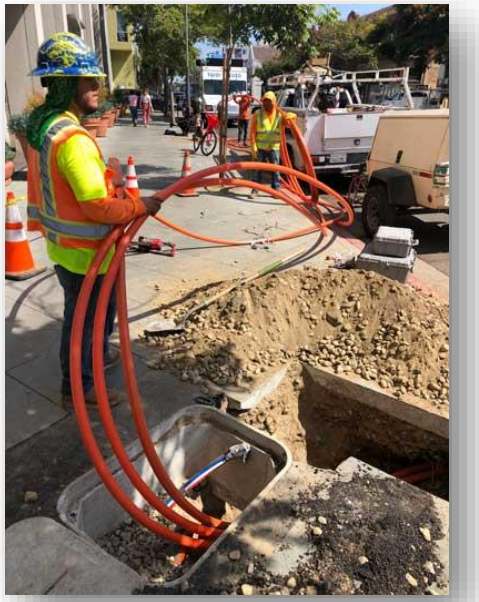
- Annual outreach letter sent to providers showing the location of FY21-27 state sponsored projects
- Expanded coordination with Dept. of Commerce
- Coordinate statewide telecom & broadband plans to minimize repeated excavations (DIG ONCE)



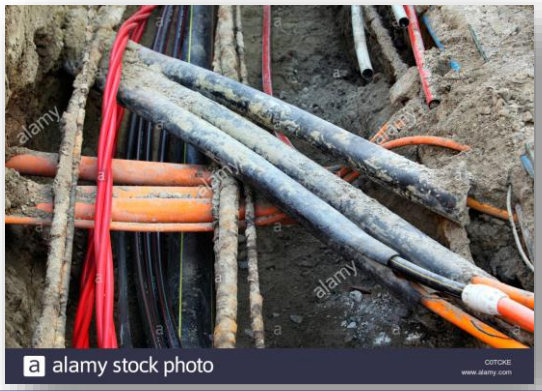
IDAHO COMMERCE

Stakeholder Engagement

- How to manage limited Right-of-Way space
- Permit Conditions
- Minimize utility excavations and disruptions to the traveling public
- Overall management of key public resource



Credit: Fiber Optic Association



Conclusion

- There is a need to update guidance, policies and administrative rules to address the ever increasing demands for utility accommodation and access to the State Highway Right-of-Way

- For more information please visit: https://itd.idaho.gov/rulemaking

Points of Contact

Ramon Hobdey-Sanchez, Project Manager, Office of Government Affairs

(208) 334-8810

ramon.hobdey-sanchez@itd.idaho.gov

Robert Beachler, Broadband Program Manager, Division of Highways, Planning Services Section

208-772-1216

robert.beachler@itd.idaho.gov

Stakeholder Inputs & Comments

Questions, Comments, Open Discussion

Models used by other States

- Highway project model: State DOT promotes opportunities to partner with road projects
- Joint use model: When a provider wants in, the DOT notifies all other providers that a fiber project is being planned
- Private lease model: The DOT requires providers to install extra conduit with their initial install
- Exchange model: The DOT requires extra conduit when installing any broadband and tracks the installations

Models used by other States *(cont.)*

- Public owned model: The DOT installs conduit with road projects and then owns it and sells/leases it when others want to use it
- Anchor Tenant model: The State (or other entity) identifies where broadband is needed and helps incentivize the deployment by agreeing to be an anchor tenant
- Most state are not using just one of the these models, but several are used together

What other State DOTs are Doing

- Arizona – 2021 legislation authorized leasing ROW to providers at fair rental value through competitive bidding
- In 2018, Utah adopted SB-189 Small Wireless Facilities Deployment Act allowing local authority to develop regulations, fair & reasonable compensation